IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 4045 of 2001

For Approval and Signature:

HONOURABLE MR.JUSTICE B.J.SHETHNA
HONOURABLE MR.JUSTICE M.C.PATEL

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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GULAM MOHAMMED IBRAHIM HAJI & 1 - Petitioner(s)
Versus
SANTRAMPUR MUNICIPAL BOROUGH & 2 - Respondent(s)

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Appearance :
MR ZUBIN F BHARDA for Petitioner(s) : 1 - 2.
RULE SERVED for Respondent(s) : 1 - 2.
MR SP HASURKAR, AGP for Respondent(s) : 3,
NOTICE SERVED BY DS for Respondent(s) : 3,

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CORAM : HONOURABLE MR.JUSTICE B.J.SHETHNA
and
HONOURABLE MR.JUSTICE M.C.PATEL
Date : 24/03/2006

ORAL JUDGMENT

(Per : HONOURABLE MR.JUSTICE B.J.SHETHNA)

Heard learned Counsel for the parties. It is not in dispute that the Appeal lies u/s.24 of the Bombay Highway Act, 1955. Therefore, Shri Bharda for the petitioners

seeks permission to withdraw this petition with a liberty to avail alternative remedy of Appeal u/s.24 of the Bombay Highway Act, to which Shri Hasurkar, learned AGP has no objection. Permission granted. Disposed of as withdrawn. Interim relief granted earlier stands vacated. However, at the request of learned Counsel for the petitioners the same is ordered to continue for a period of one month with a view to enable the petitioner to file Appeal before the Authority u/s.24 of the Bombay Highway Act with a prayer for interim relief in it.

This petition was pending for all these years, therefore, if the Appellant files Appeal within one month from today with an Application for condonation of delay then the Appellate – Authority after condoning the delay may decide the Appeal on merits in accordance with law. It is also made clear that if the decision in Appeal is adverse then it will be open to the petitioners to challenge the same by way of appropriate proceeding before the appropriate Court.

With this observation, this petition is disposed of as withdrawn. No order as to costs. Rule discharged

(B.J.SHETHNA,J.)

(M.C.PATEL, J.)

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